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EXAMINER

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**BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES**

Application Number: 09/760,271  
Filing Date: January 12, 2001  
Appellant(s): HARRIS, DAVID N.

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Larry Henneman, Jr.  
For Appellant

**EXAMINER'S ANSWER**

This is in response to the appeal brief filed 12/26/07 appealing from the Office action mailed 5/1/2007.

**(1) Real Party in Interest**

A statement identifying by name the real party in interest is contained in the brief.

**(2) Related Appeals and Interferences**

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

**(3) Status of Claims**

The statement of the status of claims contained in the brief is correct.  
Claims 1-3 and 5-36 stand rejected. There's a typo in the Non-Final office action mailed on 5/1/2007. Claims 1-3 and 5-36 should have been listed and are pending and stand rejected (see Final rejection mailed on 8/24/2006). All the claims limitations have been clearly addressed in the body of the rejection.

**(4) Status of Amendments After Final**

No amendment after final has been filed.

**(5) Summary of Claimed Subject Matter**

The summary of claimed subject matter contained in the brief is correct.

**(6) Grounds of Rejection to be Reviewed on Appeal**

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

**(7) Claims Appendix**

The copy of the appealed claims contained in the Appendix to the brief is correct.

**(8) Evidence Relied Upon**

5,708,422

BLONDER ET AL

01-1998

**(9) Grounds of Rejection**

The following ground(s) of rejection are applicable to the appealed claims:

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3, 5-36 are rejected under 35 U.S.C. 102(b) as being anticipated by blonder et al. (5,708,422 hereinafter Blonder).

Blonder teaches a computer system and corresponding computer method for verifying a commercial transaction between a user with credit card information and a merchant. A processing unit for processing data and code and a memory for storing data and said code, said data and said code comprising a merchant communications module to connect with the merchant for receiving a transaction approval request said transaction request (Figure 1, col. 2, lines 60-65; col. 4, lines 55-65, col. 5, lines 5-10), including information to identify an account holder associated with said credit card information (figure 3 ), and code further including an authorization module responsive to the transaction approval request to compare the request with the pre-verification condition said pre-verification condition defining a pre-verified circumstance when account holder verification is not needed and to verify the request if the criteria is satisfied (Figure 3). Blonder also teaches a plurality of verification criteria are satisfied (Figure 3), the criteria are determined by the account holder (Figure 3), receive and establish a connection with the account holder, authenticate the account holder, present

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at least one criteria to the account holder, and receive modification instructions from the account holder (col. 7, lines 65 to col. 9, line 30), the pre-verification criteria includes at least one merchant identifier (Figure 9) for comparing and verifying the merchant associated with the transaction, the pre-verification criteria includes a maximum purchase price (Figure 9) for comparison and verification of the transaction; criteria include a begin and end date for comparison and verification of the transaction (Figure 9); to verify said transaction approval request if said at least one pre-verification criteria is satisfied (i.e. verifying that the transaction approval request and the pre-verification criteria are matched and satisfied)(Figure 3); to verify said transaction approval request with said account holder if said at least one pre-verification criteria is not satisfied (i.e. if pre-verification is not satisfied then contacting the customer for approval (see figure 1, 135).

With respect to the newly added limitation of an account-holder communication module operative to enable the account-holder to said pre-verification condition, so that said account-holder can specify the circumstances when account-holder verification is not needed (i.e. the account holder John Smith specifies that on transactions less than 100, no verification is needed)(see Figure 3).

#### **(10) Response to Argument**

Appellant argues that Blonder doesn't teach that if a pre-verification condition is satisfied, the transaction need not be verified by the account holder. The Examiner disagrees with Applicant because in Blonder as shown in Figure 3, record # 3 of

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Blonder merchant codes MC=1234 and MC=4567, the merchant codes and maximum transaction per day are pre-verified and therefore the account holder is not required to verify the transactions amounts for these merchants if less than 4 transactions per day are performed. Transactions 1, 2 and 3 of record#3 for merchant codes, MC 1234 and MC 4567 **need not be verified by account holder** if less than 4 transactions for the particular **merchant** are performed for a given day.

Appellant argues that in Blonder, a pre-authorized merchant code couldn't be stored as a pre-verified condition. The Examiner disagrees with Appellant because Blonder, Figure 3, record#3 clearly teaches the merchant codes MC=1234 and MC=4567 along with maximum transaction per day are being used as pre-verification criterias in order to determine if verification with the account holder need not be verified. If the condition of less than 4 per day for a given merchant is satisfied, no authorization is required by the account holder.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., merchant code **alone** as pre-verified conditions) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

#### **(11) Related Proceeding(s) Appendix**

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

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For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

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